

Chapter 8

Other Whistleblower Statutes

I. Scope.

As discussed in Chapter 1, Federal OSHA has responsibility of investigating allegations into twenty other federal statutes. It is not the responsibility of the state investigator or CSHO to know each statute; however, a general knowledge of those statutes is essential to provide proper guidance to complainant's that alleged discrimination may be covered under federal statutes. The following provides a brief explanation of the twenty (20) other statutes that Federal OSHA would investigate as well as the days that a complainant would need to file and the respondents covered:

Act/OSHA Regulation	Days to File	Respondents Covered
<p>Asbestos Hazard Emergency Response Act (AHERA). [15 U.S.C. §2651] Provides protection for individuals who report alleged violations of environmental laws relating to asbestos in elementary and secondary school systems, whether public or private. 29 CFR 1977</p>	90	<p>Private Sector State and Municipal Certain DoD Schools Certain Tribal Schools</p>
<p>International Safe Container Act (ISCA). [46 U.S.C. §80507] Provides protection for employees who report allegations of an unsafe cargo container. 29 CFR 1977</p>	60	Private Sector
<p>Surface Transportation Assistance Act (STAA). [49 U.S.C. §31105] Provides protection for truck drivers and other employees of commercial motor carriers who report certain commercial motor vehicle safety, health or security conditions, or engage in other safety or security activities. Coverage includes all buses (for hire), hazardous material placarded, and freight trucks with a gross vehicle weight of 10,001 pounds. 29 CFR 1978</p>	180	Private Sector

<p>Safe Drinking Water Act (SDWA). [42U.S.C. §300j-9(i)] Provides protection for employees who report alleged violations relating to any waters actually or potentially designated for drinking use, whether from above ground or underground sources. 29 CFR 24</p>	30	<p>Private Sector Federal, State and Municipal Indian Tribes</p>
<p>Federal Water Pollution Control Act (FWPCA). [33 U.S.C. §1367] Also called the Clean Air Act, provides protection for employees who report alleged violations relating to discharges of pollutants into the water of the United States. 29 CFR 24</p>	30	<p>Private Sector State and Municipal Indian Tribes Federal Sovereign Immunity Bars of Investigation of FWPCA Complaints Filed by Federal Employees</p>
<p>Toxic Substances Control Act (TSCA). [15 U.S.C. §2662] Provides protection for employees who report alleged violations relating to industrial chemicals currently produced or imported into the United States and supplements the Clean Air Act (CAA) and Toxic Release Inventory under Emergency Planning and Community Right to Know Act (EPCRA). 29 CFR 24</p>	30	<p>Private Sector</p>
<p>Solid Waste Disposal Act (SWDA) [42 U.S.C. §6971] Also called the Resource Conservation and Recovery Act (RCRA), provides protection for employees who report alleged violations relating to the disposal of solid or hazardous waste at active or future facilities (see CERCLA for abandoned or historical sites). 29 CFR 24</p>	30	<p>Private Sector Federal, State and Municipal Indian Tribes</p>
<p>Clean Air Act (CAA). [42 U.S.C. §7622] Provides protection for employees who report alleged violations regarding air emissions from area, stationary, and mobile sources. 29 CFR 24</p>	30	<p>Private Sector Federal, State and Municipal</p>
<p>Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). [42 U.S.C. §9610] a.k.a. “Superfund”, provides protection for employees who report alleged violations relating to clean-up of uncontrolled or abandoned hazardous waste sites as well as accidents, spills, and other emergency releases of pollutants and contaminants into the environment. 29 CFR 24</p>	30	<p>Private Sector Federal, State and Municipal</p>

<p>Energy Reorganization Act (ERA). [42 U.S.C. §5851] Provides protection for employees who report alleged violations of nuclear safety requirements imposed under the ERA or the Atomic Energy Act of 1954, as amended. 29 CFR 24</p>	<p>180</p>	<p>NRC and its contractors and subcontractors. NRC licensees and applicants for licenses, including contractors and subcontractors. Agreement state licenses. Applicants for licenses from agreement states, including their contractors and subcontractors. DOE and its contractors and subcontractors. Federal sovereign immunity bars investigation. of ERA complaints filed against all other federal agencies</p>
<p>Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR21). [49 U.S.C. §42121] Provides protection for employees who report alleged violations of federal air carrier safety laws or regulations. 29 CFR 1979</p>	<p>90</p>	<p>Air Carriers and Their Contractors and Subcontractors</p>
<p>Sarbanes-Oxley Act (SOX). [18 U.S.C. §1514A] Provides protection for employees who report alleged violations of the federal mail, wire, bank, or securities fraud statutes, or the Securities Exchange Act or any other federal law relating to fraud against share holders.</p> <p>(If the complaint was filed on or before 7/20/10, the 90-day deadline applies. If the complaint was filed on or after 7/21/10, and the adverse action occurred on or after 4/22/10, the 180-day deadline applies. Any alleged adverse action occurring on or before 4/21/10 is untimely under either deadline if filed on or after 7/21/10). 29 CFR 1980</p>	<p>180 See Note at Left</p>	<p>Companies registered under §12 or required to report under §15(d) of the SEA and their consolidated subsidiaries or affiliates, contractors, subcontractors, officers, and agents, and nationally recognized statistical rating organizations</p>
<p>Pipeline Safety Improvement Act (PSIA). [49 U.S.C. §60129] Provides protection for employees who report alleged violations of federal law regarding pipeline safety or security or who refuse to violate such provisions. It includes a provision for levying up to \$1,000.00 civil penalties against the employer. 29 CFR 1981</p>	<p>180</p>	<p>Private Sector employers, states, municipalities, and individuals owning or operating pipeline facilities, and their contractors and subcontractors</p>

<p>Federal Railroad Safety Act (FRSA). [49 U.S.C. §20109] Provides protection for employees of railroads who report alleged violation of any federal law, rule, or regulation relating to railroad safety or security, or gross fraud, waste, or abuse of federal grants or other public funds intended to be used for railroad safety; reports, in good faith, a hazardous safety or security condition; refuses to violate or assist in the violation of any federal law, rule, or regulation relating to railroad safety or security; refuse to work when confronted by a hazardous safety or security condition related to the performance of the employees duties (under imminent danger circumstances); requests prompt medical or first aid treatment for employment-related injuries; are disciplined for requesting medical or first aid treatment or for following an order or treatment plan of a treating physician. 29 CFR 1982</p>	<p>180</p>	<p>Railroad Carriers and Their Contractors, Subcontractors and Officers</p>
<p>National Transit Systems Security Act (NTSSA). [6 U.S.C. §1142] Provides protection for public transit employees who report alleged violations of any federal law, rule, or regulation relating to public transportation agency safety or security, or fraud, waste, or abuse of federal grants or other public funds intended to be used for public transportation safety or security, refuses to violate or assist in the violation of any federal law, rule, or regulation relating to public transportation safety or security; reports a hazardous safety or security condition; refuses to work when confronted by a hazardous safety or security condition related to the performance of the employees' duties (under imminent danger circumstances). 29 CFR 1982</p>	<p>180</p>	<p>Public Transportation Agencies and Their Contractors and Subcontractors and Officers</p>

<p>Consumer Product Safety Improvement Act (CPSIA). [15 U.S.C. §2087] Employees are protected from retaliation for reporting reasonably perceived violations of any statute, order, rule, regulation, standard, or ban within the jurisdiction of the Consumer Product Safety Commission (CPSC) to the employer, the federal government, or a state attorney general. The act also protects work refusals where the employee reasonably believes an assigned task would constitute such a violation. 29 CFR 1983</p>	<p>180</p>	<p>Manufacturing, Private Labeling, Distribution and Retail Employers in the United States</p>
<p>Affordable Care Act (ACA). [29 U.S.C. §218c] Employees are protected for reporting reasonably believed violations of any provision of title I of the ACA (or amendment), or any order, rule, standard, or ban under title I of the ACA (or amendment)</p>	<p>180</p>	<p>Private and Public Sector Employees</p>
<p>Seaman’s Protection Act, 46 U.S.C. §2114 (SPA), as amended by §611 of the Coast Guard Authorization Act of 2010, Public Law 111-281. Seamen are protected for reporting to the Coast Guard or other federal agency a reasonably believed violation of a maritime safety law or regulation prescribed under the law or regulation. The act also protects work refusals where the employee reasonably believes an assigned task would result in serious injury to the seaman, or the public.</p>	<p>180</p>	<p>Private (and maybe public) Sector Employees</p>
<p>Dodd-Frank Wall Street Reform and Consumer Protection Act (DFA). (Section 1057 of Public Law 111-203) [12 U.S.C. §5567]. Employees are protected for reporting reasonably perceived violations of any provision of the Dodd-Frank Act or any other provision of law subject to the jurisdiction of the Bureau of Consumer Financial Protection, or any rule, order, standard, or prohibition prescribed by the Bureau.</p>	<p>180</p>	<p>Any service provider or person engaged in offering or providing a consumer financial product or service or such persons’ affiliate acting as a service provider to it</p>

<p>FDA Food Safety Modernization Act (FSMA) Public Law 111-353 [21 U.S.C. §1012] Employees are protected for reporting to an employer, the federal government, or the attorney general of a state, information relating to any reasonably perceived violations of any provision of the Food, Drug & Cosmetic Act or FSMA or any order, rule, or ban under this act; or for objecting to, or refusing to participate in, any activity, policy, practice, or assigned task that violates same.</p>	<p>180</p>	<p>Any Entity Engaged in the Manufacturing, Processing, Packaging, Transporting, Distribution, Reception, Holding or Importation of Food</p>
---	-------------------	--